

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 590**

Introduced by Dierks, 40.

Read first time January 21, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Disabled Persons and Family Support  
2 Act; to amend sections 68-1502, 68-1504, 68-1505,  
3 68-1506, 68-1508, 68-1510, 68-1511, 68-1512, 68-1513,  
4 68-1515, 68-1516, 68-1518, and 68-1519, Reissue Revised  
5 Statutes of Nebraska, and sections 68-1503 and 68-1509,  
6 Revised Statutes Cumulative Supplement, 2008; to provide  
7 financial compensation for care given by families at  
8 home and special food and medical needs as prescribed;  
9 to harmonize provisions; and to repeal the original  
10 sections.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 68-1502, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           68-1502 The Legislature finds and declares that:

4           (1) The family is vital to the fundamental development of  
5 each person in the State of Nebraska;

6           (2) A growing number of families are searching for ways  
7 to provide for disabled family members in the home rather than  
8 placing them in state or private institutional or residential  
9 facilities;

10          (3) Employable disabled persons should be encouraged to  
11 engage in employment and ultimately become self-supporting;

12          (4) Necessary services and financial compensation for  
13 caregiving and special food and medical needs should be available  
14 to families caring for a disabled family member so that disabled  
15 persons may remain in the home, obtain employment if possible, and  
16 maintain a more independent form of living;

17          (5) The State of Nebraska should make every effort to  
18 preserve the family unit, to insure that decisions of providing for  
19 a disabled person are based on the best interests of the disabled  
20 person and the family, and to provide services to disabled persons  
21 which promote independent living and employability; and

22          (6) The State of Nebraska should promote cost-effective  
23 health care alternatives for disabled persons.

24          Sec. 2. Section 68-1503, Revised Statutes Cumulative  
25 Supplement, 2008, is amended to read:

1                   68-1503 For purposes of the Disabled Persons and Family  
2 Support Act:

3                   (1) Department means the Department of Health and Human  
4 Services;

5                   (2) Disabled family member or disabled person means a  
6 person who has a medically determinable severe, chronic disability  
7 which:

8                   (a) Is attributable to a mental or physical impairment or  
9 combination of mental and physical impairments;

10                   (b) Is likely to continue indefinitely;

11                   (c) Results in substantial functional limitations in  
12 two or more of the following areas of major life activity: (i)  
13 Self-care, (ii) receptive and expressive language, (iii) learning,  
14 (iv) mobility, (v) self-direction, (vi) capacity for independent  
15 living, (vii) work skills or work tolerance, and (viii) economic  
16 sufficiency; and

17                   (d) Reflects the person's need for a combination and  
18 sequence of special, interdisciplinary, or generic care, treatment,  
19 vocational rehabilitation, or other services which are of lifelong  
20 or extended duration and are individually planned and coordinated;  
21 ~~and~~

22                   (3) Other support programs means all forms of local,  
23 state, or federal assistance, grants-in-aid, educational programs,  
24 or support provided by public or private funds for disabled persons  
25 or their families; and-

1           (4) Special food and medical needs means purchases made  
2 by a family caregiver specifically for the disabled family member  
3 that are different from the type or kind that would otherwise be  
4 purchased including, but not limited to, special purchases made  
5 due to allergies of the disabled person to food, soap, lotions, or  
6 other products.

7           Sec. 3. Section 68-1504, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           68-1504 The department may provide support to families  
10 providing for a disabled member in the home and to disabled  
11 persons in independent living situations. Such support may be made  
12 available to compensate for present and future expenses, including,  
13 but not limited to:

14           (1) The purchase or lease of special equipment or  
15 architectural modifications of a home made to improve or facilitate  
16 the care, treatment, therapy, general living conditions, or access  
17 of the disabled person, and the purchase of special foods and  
18 medical needs not otherwise reimbursed;

19           (2) Medical, surgical, therapeutic, diagnostic, and other  
20 health services related to the disability or disabilities of the  
21 disabled person;

22           (3) Counseling or training programs which assist the  
23 family in providing proper care for the disabled family member  
24 or assist the disabled person in an independent living situation  
25 and which provide for the special needs of the family or disabled

1 person;

2 (4) Attendant care, respite care, home health aid  
3 services, homemaker services, and chore services which provide  
4 assistance with training, routine body functions, dressing,  
5 preparation, consumption of food, and ambulation as well as  
6 providing respite assistance to the family;

7 (5) Transportation services for the disabled person; ~~and~~

8 (6) Transportation, room, and board costs incurred by  
9 the family or disabled person during evaluations or treatment of  
10 the disabled family member which receive prior approval from the  
11 department; ~~and-~~

12 (7) Financial compensation for care given by families  
13 at home to a disabled family member when eligible under section  
14 68-1505.

15 Sec. 4. Section 68-1505, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 68-1505 Families may be eligible to receive support  
18 ~~pursuant to sections 68-1501 to 68-1519~~ or financial compensation  
19 for caregiving pursuant to the Disabled Persons and Family Support  
20 Act if the family (1) resides in the State of Nebraska, (2) has  
21 a family member who is disabled and is (a) living at home or  
22 (b) residing in a state or private institutional or residential  
23 facility but could return home under ~~sections 68-1501 to 68-1519~~  
24 the act, and ~~(3)~~ (3)(a) has insufficient income to provide for  
25 the total cost of care for the disabled family member, (b) an

1 out-of-home placement has been attempted and failed and care at  
2 home is possible, or (c) the cost of care by the family at home  
3 will be less than the cost to the state for institutional care.  
4 The caregiver shall receive financial compensation at a higher rate  
5 than a salaried state employee receives for similar work done at  
6 a state facility. The caregiver and his or her family shall be  
7 eligible for health insurance as if the caregiver is a full-time  
8 state employee.

9           Sec. 5. Section 68-1506, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           68-1506 A disabled person in an independent living  
12 situation may be eligible to receive support pursuant to ~~sections~~  
13 ~~68-1501 to 68-1519~~ the Disabled Persons and Family Support Act if  
14 the person (1) is a resident of the State of Nebraska, (2) requires  
15 care to remain within an independent living situation, and (3) has  
16 insufficient income to provide for the total cost of such care.

17           Sec. 6. Section 68-1508, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           68-1508 The department may allocate costs for programs  
20 and services between the department and the family or the disabled  
21 person in an independent living situation. Such cost allocation  
22 shall be based on the need for support pursuant to ~~sections 68-1501~~  
23 ~~to 68-1519~~ the Disabled Persons and Family Support Act and shall  
24 not be based on income guidelines or fee schedules established for  
25 other programs administered by the department.

1           Sec. 7. Section 68-1509, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           68-1509 The department, in considering the needs and  
4 eligibility criteria of families and disabled persons, shall  
5 consider various factors, including, but not limited to:

6           (1) Total family income, except that the amount which  
7 the spouse may designate as provided in section 68-922 shall be  
8 excluded in determining total family income per month;

9           (2) The cost of providing supplemental services to the  
10 family or the disabled person;

11           (3) The need for each program or service received by the  
12 family or the disabled person;

13           (4) The eligibility of the family or the disabled person  
14 for other support programs;

15           (5) The costs of providing for the family or the disabled  
16 person in an independent living situation, notwithstanding the  
17 special circumstances of providing for a disabled person;

18           (6) The number of persons in the family; ~~and~~

19           (7) The availability of insurance to cover the cost of  
20 needed programs and services; ~~and-~~

21           (8) The most economical care that is in the best  
22 interests of the disabled person, including financial compensation  
23 for care given by families to a disabled family member at home.

24           If assets have been designated for an individual in  
25 accordance with section 68-922, such assets shall not be considered

1 in determining the eligibility for support of the individual's  
2 disabled spouse.

3 Sec. 8. Section 68-1510, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 68-1510 The support and financial compensation for  
6 caregiving available under sections 68-1501 to 68-1519 the Disabled  
7 Persons and Family Support Act shall be supplemental to other  
8 support programs for which the family or disabled person is  
9 eligible and is not intended to reduce the responsibility for the  
10 provision of services and support by such other programs. The  
11 department shall (1) determine whether any request under ~~sections~~  
12 ~~68-1501 to 68-1519~~ the act is appropriate to and available from  
13 other support programs, (2) deny any request if the requested  
14 assistance is appropriate to and available from other support  
15 programs and such assistance is in the best interests of the  
16 disabled person, and (3) provide information and referral to all  
17 families and disabled persons whose request for assistance was  
18 denied pursuant to this section on the procedure for applying for  
19 other appropriate and available support programs.

20 Sec. 9. Section 68-1511, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 68-1511 The department may, by agreement with the head of  
23 the family or disabled person, provide support pursuant to ~~sections~~  
24 ~~68-1501 to 68-1519~~ the Disabled Persons and Family Support Act (1)  
25 directly to the family or the disabled person, or (2) directly to

1 qualified programs and services. The department shall assist each  
2 family or disabled person receiving support under ~~sections 68-1501~~  
3 ~~to 68-1519~~ the act in locating qualified programs and services. The  
4 family or the disabled person may be required to be responsible for  
5 contracting for those programs and services which the department  
6 approves and shall furnish the department a copy of each contract.  
7 The family or the disabled person may compensate the providers  
8 of such programs and services directly. Providers of programs and  
9 services shall be required to comply with all standards established  
10 by the department for participation pursuant to ~~sections 68-1501 to~~  
11 ~~68-1519.~~ the act.

12           Sec. 10. Section 68-1512, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           68-1512 ~~The~~ (1) Except as provided in subsection (2) of  
15 this section, the maximum support allowable under sections 68-1501  
16 ~~to 68-1519~~ the Disabled Persons and Family Support Act shall be ~~(1)~~  
17 (a) three hundred dollars per month per disabled person averaged  
18 over any one-year period or ~~(2)~~ (b) three hundred dollars per  
19 month per family averaged over any one-year period for the first  
20 disabled family member plus one hundred fifty dollars per month  
21 averaged over any one-year period for each additional disabled  
22 family member. The department shall not provide support, pursuant  
23 to ~~sections 68-1501 to 68-1519,~~ the act, to any family or disabled  
24 person whose gross income less the cost of medical or other care  
25 specifically related to the disability exceeds the median family

1 income for a family of four in Nebraska, except that the department  
2 shall make adjustments for the actual size of the family.

3 (2) The limitations in subsection (1) of this section do  
4 not apply to financial compensation for care given by families at  
5 home to a disabled family member eligible under section 68-1505.

6 Sec. 11. Section 68-1513, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 68-1513 The department shall review the needs of each  
9 family or disabled person receiving support under ~~sections 68-1501~~  
10 ~~to 68-1519~~ the Disabled Persons and Family Support Act on a regular  
11 basis, as established by the department, or upon the showing of a  
12 change of circumstances by the head of the family.

13 Sec. 12. Section 68-1515, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 68-1515 The department shall adopt and promulgate rules  
16 and regulations, as necessary, to implement ~~sections 68-1501 to~~  
17 ~~68-1519,~~ the Disabled Persons and Family Support Act including:

18 (1) Standards and procedures for determining approval  
19 of qualified programs and services to participate under ~~sections~~  
20 ~~68-1501 to 68-1519,~~ the act;

21 (2) Identification of the need for programs and services  
22 of families providing for a disabled family member in the home or  
23 of disabled persons in an independent living situation;

24 (3) Identification of the need for support to families  
25 and disabled persons or for financial compensation for care given

1 by families at home to a disabled family member and procedures  
 2 for the provision of support such support or financial compensation  
 3 under sections 68-1501 to 68-1519, the act;

4 (4) Procedures for review of each family or disabled  
 5 person receiving support under sections 68-1501 to 68-1519, the  
 6 act;

7 (5) Procedures and guidelines for determining priorities,  
 8 eligibility standards, and eligibility criteria for the selection  
 9 of families and disabled persons to participate in programs  
 10 pursuant to sections 68-1501 to 68-1519, the act;

11 (6) Procedures and guidelines for determining when  
 12 support pursuant to sections 68-1501 to 68-1519 the act would be a  
 13 duplication of support from other support programs or would result  
 14 in excessive support to a family or disabled person; and

15 (7) ~~An~~ When applicable, an annual determination of the  
 16 family income guidelines necessary to carry out the provisions  
 17 of section 68-1512. Such guidelines shall be based on population,  
 18 per capita income, and other data provided by the United States  
 19 Department of Commerce, Bureau of the Census.

20 Sec. 13. Section 68-1516, Reissue Revised Statutes of  
 21 Nebraska, is amended to read:

22 68-1516 The department shall begin providing support  
 23 pursuant to sections 68-1501 to 68-1519 on July 1, 1982. From July  
 24 1, 1982, to July 1, 1986, the department shall provide support on a  
 25 priority basis to families and disabled persons eligible to receive

1 ~~support pursuant to sections 68-1501 to 68-1519.~~ The department  
 2 shall give priority to those families providing for a severely  
 3 or multiple disabled family member and to severely or multiple  
 4 disabled persons in independent living situations. Priority shall  
 5 also be given to those families and disabled persons (1) with  
 6 the greatest need for support and financial compensation for  
 7 caregiving to maintain the disabled person in the family home or  
 8 independent living situation, (2) who have the greatest possibility  
 9 of maintaining the disabled person in the home or independent  
 10 living situation on a continual basis, and (3) who demonstrate  
 11 that support pursuant to ~~sections 68-1501 to 68-1519~~ the Disabled  
 12 Persons and Family Support Act will provide the most cost-effective  
 13 form of care for the disabled person.

14           Sec. 14. Section 68-1518, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16           68-1518 The department shall file an annual report with  
 17 the Governor and the Clerk of the Legislature on or before January  
 18 1 of each year beginning January 1, 1983. Such report shall  
 19 include:

20           (1) The number of families and disabled persons applying  
 21 for support, including financial compensation for caregiving,  
 22 pursuant to the Disabled Persons and Family Support Act ~~pursuant to~~  
 23 ~~sections 68-1501 to 68-1519~~ and the number of families and disabled  
 24 persons receiving support pursuant to ~~sections 68-1501 to 68-1519,~~  
 25 the act;

1           (2) The types of services and programs being applied for  
2 and those being provided through ~~sections 68-1501 to 68-1519,~~ the  
3 act;

4           (3) The effects of the support, including financial  
5 compensation for caregiving, provided under ~~sections 68-1501 to~~  
6 ~~68-1519~~ the act on the disabled and their families; and

7           (4) Any proposals for amendment of ~~sections 68-1501 to~~  
8 ~~68-1519,~~ the act.

9           Sec. 15. Section 68-1519, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           68-1519 Any person who by means of a willfully false  
12 statement or representation, or by impersonation or other device,  
13 obtains or attempts to obtain, or who aids or abets any other  
14 person in obtaining support under ~~sections 68-1501 to 68-1519~~ the  
15 Disabled Persons and Family Support Act shall, upon conviction  
16 thereof, be punished pursuant to section 68-1017.

17           Sec. 16. Original sections 68-1502, 68-1504, 68-1505,  
18 68-1506, 68-1508, 68-1510, 68-1511, 68-1512, 68-1513, 68-1515,  
19 68-1516, 68-1518, and 68-1519, Reissue Revised Statutes of  
20 Nebraska, and sections 68-1503 and 68-1509, Revised Statutes  
21 Cumulative Supplement, 2008, are repealed.